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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT SEATTLE

9 JAMES KARNATH,

10 Plaintiff,

11 v.

12 TRACY DANIELS,

13 Defendant.

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) CASE NO. C08-1002-RSM-BAT  
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) **REPORT AND RECOMMENDATION**  
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14 **INTRODUCTION AND SUMMARY CONCLUSION**

15 Plaintiff James Karnath has filed a civil rights action under 42 U.S.C. § 1983. Plaintiff  
16 alleges in his amended complaint<sup>1</sup> that defendant Tracy Daniels ordered, and participated in, an  
17 assault on plaintiff in November 2007. He contends that he suffered irreparable physical harm as a  
18 result of the assault; *i.e.*, broken wrists, and that the assault violated his Eighth Amendment right to  
19 be free from cruel and unusual punishment.<sup>2</sup> Plaintiff seeks injunctive relief, but no monetary  
20 damages.

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22 <sup>1</sup> The Court declined to serve plaintiff's original complaint, but granted plaintiff  
23 leave to amend. (*See* Dkt. No. 13.) It is plaintiff's amended complaint, filed on July 28,  
24 2008, which is currently before the Court.

25 <sup>2</sup> As will be explained in more detail below, plaintiff's amended complaint contains  
26 additional allegations. However, plaintiff does not clearly attribute this additional  
misconduct to defendant Daniels nor does he specifically identify any other individuals  
whom he believes to be responsible for the misconduct.

1 Defendant Daniels has now filed a motion to dismiss this action pursuant to Fed. R. Civ. P.  
2 12(c) in which he argues that plaintiff lacks standing to bring his claim. Plaintiff has filed a  
3 response to defendant's motion, and defendant has filed a reply. The briefing is now complete and  
4 defendant's motion is ripe for review. The Court, having reviewed defendant's motion to dismiss,  
5 and the balance of the record, concludes that defendant's motion to dismiss should be granted and  
6 this action should be dismissed with prejudice as to defendant Daniels.

### 7 **DISCUSSION**

8 Plaintiff alleges in his amended complaint that on November 26, 2007, defendant Tracy  
9 Daniels ordered, and personally participated in, a brutal physical assault on plaintiff. (Dkt. No. 16 at  
10 3.) Plaintiff contends that the assault was unprovoked, that the use of force was extreme, and that  
11 defendant Daniels' actions it caused him severe pain and irreparable injury as evidenced by medical  
12 tests showing a broken wrist. (*Id.*)

13 Plaintiff also alleges in his amended complaint that he has "suffered a campaign of  
14 harrassment, re-assaults, unjust infractions, and ad-seg placements, and the wanton re-infliction of  
15 pain" in retaliation for filing a grievance against defendant Daniels. (*Id.*) A part of this retaliatory  
16 conduct, according to plaintiff, is that wrist splints prescribed by the medical department to support  
17 his injured wrists were taken away and that steel cuffs were forced directly onto his injured, un-  
18 splinted wrists. (*Id.*) Plaintiff does not attribute any of this retaliatory conduct to defendant Daniels,  
19 the lone defendant named in this action.

20 Plaintiff further alleges in his amended complaint that his medical records have been altered  
21 and that his legal papers have been taken away and held for over two months. (*Id.*) Finally, plaintiff  
22 alleges that he was transferred to the Washington State Penitentiary ("WSP") "as further retaliation"  
23 and that since his transfer to WSP, he has been cuffed daily on his bare wrists, he has been denied  
24 adequate medical care, his legal work has been withheld, and his mail has been blocked. (*Id.*)  
25 Again, plaintiff does not attribute any of this alleged misconduct to defendant Daniels.  
26

1 Plaintiff does not request any monetary damages in his amended complaint, he requests only  
2 injunctive relief. Specifically, plaintiff seeks an order directing that: (1) he be returned to the  
3 general population at the Washington State Reformatory (“WSR”); (2) his medical wrist splints be  
4 returned; (3) his legal papers be returned and he be given full law library access at WSR; (4) his  
5 religious right to freely attend chapel services be reinstated; (5) future ad-seg and IMU placements be  
6 reviewed; and (6) the use of steel handcuffs be prohibited. (Dkt. No. 16 at 4.)

7 Defendant Daniels argues in his motion to dismiss<sup>3</sup> that plaintiff lacks standing to bring his  
8 claim. Defendant notes that plaintiff is seeking only injunctive relief and that he does not request  
9 any specific relief from defendant Daniels.

10 “Those who seek to invoke the jurisdiction of the federal courts must satisfy the threshold  
11 requirement imposed by Article III of the Constitution by alleging an actual case or controversy.”  
12 *City of Los Angeles v. Lyons*, 461 U.S. 95, 101 (1983). The “case or controversy” requirement  
13 restricts federal jurisdiction to those cases where the plaintiff can demonstrate that “he has sustained  
14 or is immediately in danger of sustaining some direct injury as the result of the challenged official  
15 conduct and the injury or threat of injury must be both real and immediate.” *Id.* at 101-02 (internal  
16 quotations omitted.). “Past exposure to illegal conduct does not in itself show a present case or  
17 controversy regarding injunctive relief . . . if unaccompanied by any continuing, present adverse  
18 effects.” *O’Shea v. Littleton*, 414 U.S. 488, 495-96 (1974).

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20 The illegal conduct which plaintiff attributes to defendant Daniels is alleged to have occurred  
21 in November 2007, several months before plaintiff filed the instant action. Plaintiff does not seek  
22 damages from defendant Daniels but, instead, seeks various forms of injunctive relief. As plaintiff

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24 <sup>3</sup> Defendant seeks a judgment on the pleadings pursuant to Rule 12(c) of the Federal  
25 Rules of Civil Procedure. “A judgment on the pleadings is properly granted when, taking all  
26 allegations in the pleading as true, the moving party is entitled to judgment as a matter of  
law.” *Enron Oil Trading & Transp. Co. v. Walbrook Ins. Co., Ltd.*, 132 F.3d 526 (9th Cir.  
1997) (quoting *McGann v. Ernst & Young*, 102 F.3d 390, 392 (9th Cir. 1996)).

1 seeks only injunctive relief, he must demonstrate continuing adverse effects from the alleged illegal  
2 conduct in order to have standing to pursue his claim against defendant Daniels. Of the various  
3 requests for injunctive relief, only two bear any relation to the injury allegedly inflicted by defendant  
4 Daniels; *i.e.*, plaintiff's request for an order directing that his medical wrist splints be returned and  
5 plaintiff's request that the use of steel handcuffs on his damaged wrists be prohibited. However,  
6 plaintiff alleges no facts in his amended complaint suggesting that defendant Daniels was the  
7 individual responsible for depriving him of his wrist splints or for using steel handcuffs on his  
8 injured wrists. Accordingly, this Court must concluded that plaintiff lacked standing to pursue his  
9 claims of injunctive relief against defendant Daniels in the first instance.

10 Assuming that defendant Daniels was the individual responsible for denying plaintiff access  
11 to the wrist splints and for refusing to use modified restraints on plaintiff at the time plaintiff  
12 originally filed this action, the record makes clear that plaintiff is no longer incarcerated at the  
13 institution where defendant Daniels is employed. Plaintiff is currently housed at the Monroe  
14 Corrections Complex - Special Offenders Unit and defendant Daniels is currently employed at the  
15 Monroe Corrections Complex - Minimum Security Unit. Thus, to the extent plaintiff had standing to  
16 seek injunctive relief against defendant Daniels at the time the action was filed, any such request is  
17 now moot.

### 18 CONCLUSION

19 Based upon the foregoing, this Court recommends that defendant's motion to dismiss be  
20 granted, and that plaintiff's amended complaint and this action be dismissed with prejudice. A  
21 proposed order accompanies this Report and Recommendation.  
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23 DATED this 11<sup>th</sup> day of June, 2009.

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26 BRIAN A. TSUCHIDA  
United States Magistrate Judge